

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, STATE OF  
CALIFORNIA, STATE OF ILLINOIS, STATE  
OF MARYLAND, and STATE OF  
MINNESOTA,

Plaintiffs,

RURAL & MIGRANT MINISTRY, ALIANZA  
NACIONAL DE CAMPESINAS, EL COMITE  
DE APOYO A LOS TRABAJADORES  
AGRÍCOLAS, FARMWORKER ASSOCIATION  
OF FLORIDA, MIGRANT CLINICIANS  
NETWORK, PINEROS Y CAMPESINOS  
UNIDOS DEL NOROESTE, RURAL  
COALITION, UNITED FARM WORKERS, and  
UNITED FARM WORKERS FOUNDATION,

Consolidated Plaintiffs,

-v-

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY and MICHAEL S.  
REGAN, in his official capacity as Administrator  
of the United States Environmental Protection  
Agency,<sup>1</sup>

Defendants.

20 Civ. 10642 (LJL)  
(Consolidated)

**[PROPOSED]  
FOURTH STIPULATION AND  
CONSENT ORDER FURTHER  
EXTENDING STAY AND  
EXTENDING INJUNCTION**

WHEREAS on December 16, 2020, plaintiffs Rural & Migrant Ministry, Alianza Nacional de Campesinas, El Comité de Apoyo a Los Trabajadores Agrícolas, Farmworker Association of Florida, Migrant Clinicians Network, Pineros y Campesinos Unidos del Noroeste, Rural Coalition, United Farm Workers, and United Farm Workers Foundation (together, “Organizational Plaintiffs”) filed an action, No. 20 Civ. 10645, asserting claims under the

---

<sup>1</sup> Michael S. Regan was sworn in as Administrator of the Environmental Protection Agency on March 11, 2021, and was automatically substituted pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 *et seq.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 *et seq.*, challenging a regulation promulgated by the U.S. Environmental Protection Agency (“EPA”), Pesticides—Agricultural Worker Protection Standard: Revision of the Application Exclusion Zone Requirements (“2020 Rule”), 85 Fed. Reg. 68,760 (Oct. 30, 2020);

WHEREAS also on December 16, 2020, the states of New York, California, Illinois, Maryland, and Minnesota (together, “State Plaintiffs”), also filed an action, No. 20 Civ. 10642, asserting claims challenging the 2020 Rule under the APA;

WHEREAS on December 28, 2020, the Court issued a temporary restraining order and stay postponing the effective date of the 2020 Rule until January 11, 2021, and issued an Opinion and Order the following day, *see* No. 20 Civ. 10645, Dkt. Nos. 35, 37;

WHEREAS on January 7, 2021, EPA advised the Court that it had identified an error in information underlying the 2020 Rule and needed sufficient time to evaluate the issue and determine its effect, if any, on the 2020 Rule, *see* Dkt. No. 17;

WHEREAS since that time the effective date of the 2020 Rule has subsequently been stayed and restrained, both by orders of the Court and subsequently by stipulations between the parties, *see* Dkt. Nos. 19, 30, 40, 45, 50, 55;

WHEREAS at this time, EPA continues to consider, and the parties are discussing, possible means by which EPA may proceed with respect to the 2020 Rule and whereby these consolidated actions may be resolved, including a possible notice and comment rulemaking, and therefore the parties believe a further stay of the effective date of the 2020 Rule is appropriate;

NOW, THEREFORE, it is stipulated and agreed, and the Court hereby orders, as follows:

1. With the consent of the Organizational Plaintiffs and EPA,<sup>2</sup> the stay of the effective date of the 2020 Rule under 5 U.S.C. § 705 shall be further extended through October 18, 2021, and the preliminary injunction shall likewise be extended such that it enjoins and restrains EPA from taking any action to make effective the 2020 Rule through the same date.

2. All proceedings in these consolidated actions, including the deadlines to answer or otherwise respond to the complaints in these consolidated actions, shall be stayed through October 18, 2021.

3. EPA shall provide a status update by October 12, 2021.

4. Counsel for EPA will file this Stipulation and Consent Order via ECF on behalf of all parties. Pursuant to Section 8.5(b) of the Electronic Case Filing Rules & Instructions of the U.S. District Court, Southern District of New York, counsel for all parties consent to the electronic filing of this Stipulation and Consent Order by counsel for EPA.

5. The terms of this Stipulation and Consent Order shall become effective upon its entry by the Court. If the Stipulation and Consent Order is not approved and entered by the Court, it shall be null and void, with no force or effect.

Dated: August 11, 2021

/s/ Carrie Apfel  
Carrie Apfel  
Earthjustice  
1001 G Street, NW, Suite 1000  
Washington, DC 20001  
capfel@earthjustice.org

---

<sup>2</sup> The State Plaintiffs consent to the relief requested in this Stipulation and Consent Order.

Eve Gartner  
Surbhi Sarang  
Kara Goad  
Earthjustice  
48 Wall Street, 19th Floor  
New York, NY 10005  
egartner@earthjustice.org  
ssarang@earthjustice.org  
kgoad@earthjustice.org

Iris Figueroa  
Trent Taylor  
Farmworker Justice  
1126 16th St., NW, Suite LL-101  
Washington, DC 20036  
ifigueroa@farmworkerjustice.org  
ttaylor@farmworkerjustice.org

*Counsel for the Organizational Plaintiffs*

Dated: August 11, 2021

AUDREY STRAUSS  
United States Attorney for the  
Southern District of New York

By: s/ Anthony J. Sun  
SAMUEL DOLINGER  
ANTHONY J. SUN  
Assistant United States Attorneys  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel.: (212) 637-2677 / 2810  
E-mail: samuel.dolinger@usdoj.gov  
anthony.sun@usdoj.gov

*Counsel for Defendants*

SO ORDERED:

\_\_\_\_\_  
HONORABLE LEWIS J. LIMAN  
United States District Judge

Dated: \_\_\_\_\_  
New York, New York